

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

TESSERA, INC.,

No. C 12-692 CW

Plaintiff,

ORDER GRANTING IN
PART AND DENYING
IN PART QUALCOMM'S
RENEWED MOTION TO
FILE UNDER SEAL
(Docket No. 176)

v.

QUALCOMM, INC.; FREESCALE
SEMICONDUCTOR, INC.; ATI
TECHNOLOGIES, ULC,

Defendants.

_____/

Defendant Qualcomm, Inc. seeks leave to file under seal an unredacted version of Exhibit A to its motion to strike Plaintiff Tessera, Inc.'s preliminary infringement contentions. Exhibit A contains Tessera's Amended Disclosure of Asserted Claims and Infringement Contention, including Appendices A, B and C and excerpts of Appendices D and E. Qualcomm represents that the excerpts of Appendices D and E contain material that it has designated as confidential, and the Amended Disclosure and Appendices A and B contain material that Tessera and Defendants Freescale Semiconductor, Inc. and ATI Technologies ULC have designated as confidential. Tessera, Qualcomm, Freescale, ATI and Advanced Micro Devices, Inc. (AMD), ATI's parent company, have submitted declarations in support of Qualcomm's motion to seal.

Because the public interest favors filing all court documents in the public record, any party seeking to file a document under seal must demonstrate good cause to do so. Pintos v. Pac. Creditors Ass'n, 605 F.3d 665, 678 (9th Cir. 2010). This cannot be established simply by showing that the document is subject to a

1 protective order or by stating in general terms that the material
2 is considered to be confidential, but rather must be supported by
3 a sworn declaration demonstrating with particularity the need to
4 file each document under seal. See Civil Local Rule 79-5(a). If
5 a document has been designated as confidential by another party,
6 that party must file a declaration establishing that the document
7 is sealable. Civil Local Rule 79-5(d).

8 Qualcomm represents that the excerpts of Appendices D and E
9 contain cross-sectional views of its accused product families,
10 which depict the specific design and content of its chip packages.
11 Scott Decl. ¶ 5. It states this information is highly proprietary
12 and that disclosure of this information to its competitors could
13 devalue these assets and hurts its ability to compete. Id. at
14 ¶ 6. Having reviewed the contents of the excerpts of Appendices D
15 and E, the Court finds that Qualcomm has established good cause to
16 seal them.

17 Tessera, ATI, AMD and Freescale seek to seal portions of
18 section eight of the Amended Disclosure. Tessera states that this
19 section contains confidential information about its licensing
20 negotiations with prospective licensees and facts about the
21 breadth of its licensing program and the number of Tessera
22 licensees, and that disclosure of such information would hurt its
23 ability to continue to license its technology successfully.

24 McDonald Decl. ¶¶ 4, 5. ATI, AMD and Freescale represent that
25 section eight contains confidential information regarding their
26 discussions with Tessera about the patents-in-suit. Chow Decl.
27 ¶¶ 3, 5; Patrick Decl. ¶¶ 3, 5. Having reviewed the relevant
28 excerpt, the Court finds good cause to seal lines 7:6-20,

1 7:27-8:7, 8:11-9:1 and 9:2-15. The parties have not established
2 good cause to seal lines 7:21-26 and 9:16-24, because these
3 portions merely describe the holdings of this Court, the
4 International Trade Commission and the Federal Circuit, which are
5 public information.

6 Freescale, ATI and AMD also seek to seal portions of
7 Appendices A and B, which list the product families and specific
8 product model numbers that Tessera is accusing in this litigation.
9 Freescale, ATI and AMD state that public disclosure of this
10 information "could prejudice [them] relative to [their]
11 competitors and others with whom [they] engage[] in business
12 dealings." Chow Decl. ¶ 6; Patrick Decl. ¶ 5. Freescale, ATI and
13 AMD do not explain how the identities of the accused products are
14 confidential or how public disclosure thereof would in fact
15 prejudice them. Accordingly, the Court finds that they have not
16 established good cause to seal portions of these appendices.

17 Finally, Tessera seeks to seal Exhibit 3 to the Amended
18 Disclosure, which contains the declaration of Kirk E. Flatow.
19 McDonald Decl. ¶ 3. However, Qualcomm has not submitted this
20 document as part of its exhibits in support of its motion to
21 strike. Thus, Tessera's request is denied.

22 Accordingly, Qualcomm's motion to seal is GRANTED in part and
23 DENIED in part (Docket No. 176). Within four days of the date of
24 this Order, Qualcomm shall file an unredacted version of Exhibit A
25 under seal and a redacted version in the public record. In the
26 version filed in the public record, Qualcomm shall redact lines
27 7:6-20, 7:27-8:7, 8:11-9:1 and 9:2-15 of the Amended Disclosure
28

1 and the excerpts of Appendices D and E. Qualcomm shall not redact
2 Appendices A, B or C.

3 IT IS SO ORDERED.

4
5 Dated: July 11, 2012


CLAUDIA WILKEN
United States District Judge